IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4472 OF 2005

Shri Namdeo Dhondiram Yadav ..Petitioner.

Versus

Shri Vidyadhar S. Sirnaik & Ors. ..Respondents.

Mr. T.D. Deshmukh for the Petitioner.

CORAM : S. A. BOBDE, J.

DATED : 12TH JULY, 2005.

P.C.:

1. The petitioner has challenged the order of the learned appellate Court, upholding the order of the trial court, refusing to grant mandatory injunction to the petitioner. The petitioner has sought mandatory injunction to the respondents to hand over possession of the premises to him on the ground that he was illegally dispossessed.

2. The appellate court agreed with the observation of the trial court on the question whether

the petitioner was in possession and therefore, is entitled to restoration of his possession, can only be decided after recording evidence. I see no infirmity in this observation.

3. Having regard to the fact that the appellate court has directed the trial court to dispose of the said application within 4 months, which period is already over, I am of the opinion, that there is no reason to interfere with the impugned order. Petition is therefore, dismissed.

4. The trial court to dispose of the suit as expeditiously as possible. Liberty to the petitioner to apply for expeditious disposal.

12.07.2005 (S.A.BOBDE,J.)

.....